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ZBA 2014-78

Petition of Adelaide Urquhart 1995 Trust
14 Brewster Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, September 4, 2014, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of ADELAIDE URQUHART 1995 TRUST requesting a Special Permit/Finding pursuant to the provisions of Section XIVE, Section XVII and Section XXV of the Zoning Bylaw that demolition of an existing nonconforming structure and construction of a new structure that will meet all setback requirements, on a 10,080 square foot lot in a Water Supply Protection and Single Residence District in which the minimum lot size is 15,000 square feet, at 14 BREWSTER ROAD, shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

On August 18, 2014, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing were Laurence Shind, Esq., representing Adelaide Urquhart 1995 Trust, (the Petitioner) and Paul Bevilacqua, Principal, 14 Brewster Rd. Development, LLC, now the property owner. Mr. Shind said that the request is for a Special Permit/Finding that the demolition of the existing structure on the lot and construction of a new residence that will comply with all Zoning dimensional setbacks will not be substantially more detrimental to the neighborhood than the existing structure. He said that the lot is undersized at 10,080 square feet in a district in which the minimum lot size is 15,000 square feet. He said that no lot on Brewster Road meets the minimum lot size requirement. He said that of the seven lots on Brewster Road, there are all nearly identical in size, anywhere between 10,000 and just over 11,000 square feet.

Mr. Shind said that, according to the Assessor's records, the house was built in 1940. He said that it is a two-story cape colonial with approximately 1,600 square feet of living area. He said that the existing house is nonconforming in the front at 29.5 feet. He said that the proposed structure will meet setback requirements. He said that lot coverage will increase from 16 percent to just over 24 percent. He said that the new footprint closely adheres to the existing footprint on the front and side elevations. He said that the increased bulk of the proposed house is at the rear and will not be visible from the street.

Mr. Shind said that Tim and Kim Lysaght, 15 Winslow Road, are the abutters to the rear and wrote a letter of support.

Mr. Shind said that Total Living Area plus Garage (TLAG) will be 3,656 square feet, which is below the 4,300 square foot threshold for Large House Review (LHR) in this district.

Mr. Shind said that careful consideration was given to the design of the proposed house to minimize the visual impact on the streetscape by following closely the existing front and side footprints and by incorporating gable and dormer elements to help lower massing and roof height.

Mr. Adams said that when he went to the property there was a five foot elevation change from the front of the property to the back. He said that the height calculation appears to be taken at the front of the house. He said that he was concerned that this does not accurately reflect the height from average grade. He said that the Petitioner may have to provide a topography plan to convince the Board of the correct height from average grade. He said that the height requirement could also be satisfied by reducing what appears to be the artificially raised center portion of the roof. He said that there are some design issues involved with that. He said that the Petitioner could reduce the perceived mass and bulk of the structure. He said that, with the exception of the roof, what is seen from the street is not out of scale with adjacent properties even though it is somewhat larger.

Mr. Adams said that the plan shows a stair that appears to go up to the third floor. Mr. Bevilacqua said that it will be a trussed roof and there is no living space planned for the upper floor.

Mr. Seegel said that the plot plan does not show any of the trees on the property. He said that it is heavily treed as it exists. He said that the Board will need to see a Tree Bylaw Plan with all of the trees that are planned to be taken down and the trees that will remain and measures will be taken to protect them.

Mr. Sheffield said that the proposed house looks like it is on steroids. He said that this is a neighborhood that has not yet been discovered by developers. He said that in other areas of town, the larger houses have been built on conforming lots. He said that this would be one of the first larger houses in this neighborhood, which is something that he was not happy about. He said that a smaller design would satisfy the scale of the neighborhood and the topography of the site.

Mr. Adams asked about Total Living Area plus Garage (TLAG) calculations. Mr. Shind said that they were submitted after the application.

Catherine Johnson, 22 Standish Road, said that she is a member of the Planning Board and a Realtor with Hammond Residential. She said that she had spoken with a builder who wanted to rehab the property and keep it pretty much the way it is. She said that she did not want to conflict this by turning in an offer for the builder. She said that she referred the builder to another Broker, David Fay, who wrote the offer for Mr. Bevilacqua. She said that she recused herself at the time of the Planning Board meeting and filed a Perceived Conflict of Interest Report with the Town Clerk.

Ms. Johnson said that she moved to Standish Road in 1989. She said that she previously lived in a large Victorian on West Newton Hill, which was the house but not the life of her dreams. She said that she came here to heal. She said that the people, the streets, the neighborhood, the houses and, by extension Longfellow Pond and the Town Forest, brought her back. She said that it deeply concerned her when she saw Mr. Bevilacqua's plan for Brewster Road. She said that it is possible to replace a nonconforming house and stay within the setback and height limits and make things work. She said that there is a difference between conforming to the numbers and confirming with the character of the neighborhood. She said that it is an undiscovered street. She said that it is part of the original subdivision of the Standish Estates, at a time pre-dating the 15,000 square foot district. She said that this lot has 10,080 square feet,

which is the smallest on Brewster Road. She said that to replace what is there with something that is essentially 225 percent larger, raises the mass, the scale and the character. She said that the proposed house will be 644 square feet below the LHR threshold. She said that number is still more than double the median size of any of the houses on the street. She said that it does not account for 1,200 square feet that will be finished in the basement. She said that the stairway that goes to unfinished space on the third floor, though trussed, in Needham, was used and marketed as being potentially finishable. She said that the house was built in Needham in 2011 and was resold in 2013 with a room up there with skylights at the back. She said that would make the total marketing square footage of the house closer to 5,000 square feet and it really becomes the behemoth. She said that there are also the issues of setbacks and height. She said that the proposed structure extends to every setback and stops at 34 feet 8 inches. She said that is approximately 11 feet taller than the neighboring properties. She said that it will dwarf the entire street.

Ms. Johnson displayed a model (retained by Proponent).

Ms. Johnson said that one can build to town wide standards but that does not speak to the character of the neighborhood. She said that 31 residents signed the petition. She said that the proposed plans are from Shane Company in Milford. She said that these homeowners understand the character of the neighborhood. She said that they have resided there for a collective of 771 years. She said that Mr. Bevilacqua has owned the property for eight days. She said that they welcome him to the neighborhood but it will take a while before he can figure out scale, mass and size.

Ms. Johnson said that there are four reasons that the neighbors think that the proposed structure will be detrimental to the neighborhood. She said that conventional wisdom says that new construction raises the value of neighboring homes but conventional wisdom is not always right. She displayed photographs of the house that exists in Needham.

Ms. Johnson said that putting this house on Brewster Road will improve that lot but not the houses on either side. She said that one of the neighbors commented that putting the proposed house in will make the houses on either side look dinky. She said that those houses are actually charming and the people who live in them will suddenly find that their houses might just sell for less, in part because they become worth the value of their land. She said that there has to be close attention paid to mass and scale. She said that they had done some studies of properties that have sold since 2000. She said that in neighborhoods with speculative building there has been a negative or less than 1 percent appreciation for the existing housing stock. She said that in neighborhoods where there has been no speculative building but owners have put on additions that were permitted, for the same period of time, the older stock of houses in those neighborhoods, appreciation has been 8 percent. She said that there is a loss of value when speculative building comes into a neighborhood.

Ms. Johnson said that the whole neighborhood is a natural basin. She said that rain, storm and ground water comes from MassBay hill on Oakland Road and Route 9 and it works its way down to Longfellow Pond. She said that drainage can only be controlled in certain instances, such as LHR or Projects of Significant Impact but not for normal building. She said that the hope is that builders will put in everything from swales and rain gardens to appropriate sump pumps and drainage to appropriate downspouts. She said that one of the most detrimental things is that when a small foundation is replaced with a much larger foundation, dirt is taken up and tree roots are destroyed. She said that when there are large rains in the spring or extensive storms, there is no soil left to absorb groundwater and it has to go

somewhere. She said that the only other places available are other people's basements. She said that is detrimental.

Ms. Johnson said that a third issue is sustainability or smart growth. She said that many developers have said that they are environmentally aware and that they are green certified. She said that is a bit misleading. She said that, according to a recent national study, every time a house is torn down and replaced with a house that is 30 percent more energy efficient, it still requires between 10 and 80 years to recover the energy costs of constructing the new house. She said that is not smart growth. She said that Wellesley's 2007 to 2017 Comprehensive Plan addresses the need for smaller houses and the desirability of maintaining the character of the town's neighborhoods. She said that this project, called the Welby Way, does not do that.

Ms. Johnson said that the fourth reason that the neighbors oppose the proposed project is that it is not in keeping with the character of the neighborhood. She said that it does not have to be an itty bitty cape or a small colonial but the neighborhood is a village and it embraces all who live there. She said that the neighbors love the architecture, the diversity and the sense that the houses were built to be compatible with their neighbors. She said that when many neighbors have put on additions, they have taken the time and care and had the knowledge and understanding to make everything fit together like a fine jigsaw puzzle with no rough edges. She said that the proposed construction may conform to the numbers but not the size, scale, mass or volume. She said that it will be exceedingly detrimental to the neighborhood. She said that the neighbors respectfully requested that the ZBA deny the request for a Special Permit/Finding. She said that the proposed plan is so wrong for so many reasons that taking three to four feet off of the height will not effectively reduce the house. She said that the neighbors would like to see the house improved and the yard pretty. She said that they would like to see Mr. Bevilacqua move into the neighborhood and live in the house himself. She said that the neighbors would like to see Mr. Bevilacqua work with the neighbors.

Mr. Sheffield said that one of his concerns around the town is that the height limitation of 36 feet seems to be one size fits all. He said that a 20,000 square foot lot can handle a house of 36 feet, a 15,000 square foot lot less so, and a 10,000 square foot lot even less. He encouraged the Planning Board to address that as a little bit different approach to controlling the size and scale of the buildings.

Mr. Seegel said that the Board received emails and petitions from the neighbors. He said that the Board understands that the neighbors' concerns are real.

Josh Doran, former resident of the neighborhood, said that his mother is Catherine Johnson, who resides at 22 Standish Road. He said that he spends one to days a week at his mother's house. He said that he is an advisory member of the Wellesley Historical Commission which is devoted to protecting the town's historical assets. He said that Wellesley owes much of its character to the development of neighborhoods between the late 1880's and the post World War II era. He said that some neighborhoods are more desirable than others. He said that the Standish Road neighborhood that includes Brewster Road, has the largest collection of homes designed by Royal Barry Wills, who was considered to be the father of the Cape Cod Colonial. He said that his designs, like the houses in this neighborhood, express reticence a modest scale, traditional proportions and a healthy dose of sentiment and charm. He said that Mr. Will's designs attracted national attention. He said that 1 Standish Road was featured in Mr. Wills' book, Houses for Good Living, which was published in 1940, and 9 Standish Road was included as one of four examples of his work in a feature story on the Architect in a 1946 issue of Life Magazine. He said that

the architectural significance of the neighborhood does not mean that the neighborhood cannot change. He said that houses can evolve and change to meet the needs of its residents. He said that tear downs and reconstruction such as the proposed at 14 Brewster Road and what is currently being constructed at 15 Dudley Road and 14 Winslow Road are the antithesis of what Royal Barry Wills and the builder the homes, Maurice Dunlavy had in mind when the neighborhood was created in the 1930's and 1940's. He said that these monstrous and aesthetically unpleasing edifices physically destroy the neighborhood cohesion and charm that make the neighborhood so special. He said that they also have a huge detrimental impact on the environment and drainage and the value of surrounding older homes. He said that spec houses are the opposite of smart growth. He read a quote from Royal Barry Wills. He said that the town is seeing low resale prices of older homes, problems with drainage with new construction and destruction of neighborhoods. He said that this problem is being felt throughout the country. He said that Wellesley has a chance to stop the trend of tear downs. He said that the neighbors are currently trying to establish a Neighborhood Conservation District (NCD) to preserve what they love about the neighborhood. He said that if the proposed project is approved, it will destroy that character and may hinder chances to establish an NCD. He said that if they cannot establish an NCD, the houses will be replaced with spec houses. He urged that the ZBA deny the application for a Special Permit/Finding and have Mr. Bevilacqua come up with a new plan.

Andrew D'Avanzo, 10 Brewster Road, said that he lives next door and has known the previous owners for many years. He said that he has owned 10 Brewster Road since August, 1971. He said that it was his first home when he got married. He said that the neighborhood has a certain aspect of charm and a quality of life and an area where you are not overwhelmed with all kinds of structures. He said that it is a neighborhood that you can walk in and be very neighborly. He said that he moved out but retained the house and is now planning to move back. He said that he loves the neighborhood and its style and convenience. He said that the neighborhood is heavily treed, there is variation in land and proximity to walking areas. He said that this development, although a worthy development, is in the wrong place. He said that this would destroy the neighborhood. He said that it would block the southern exposure of his house and make his yard peer into a huge structure that does not currently exist at the back of the house. He said that there are some serious drainage issues. He said that during heavy rain storms, they are at the back collecting water. He said that the previous neighbor said that there was a stream under there that flooded when there was heavy rain. He said that efforts for drainage controls means maintaining all of the green space that they can. He said that he adds a face and a history of over 44 years that this particular development, although conforming to the numbers and what is possible, does not achieve the qualitative, liveability desirability. He said that value is not just the structure and the size of the home, it is the location of the home and the neighborhood that it has. He said that it is a very valuable asset in the Town of Wellesley to still have this type of neighborhood. He said that he would like to be sure that the Town preserves this asset for future generations to enjoy.

David Fay said that he is a neighbor and a Realtor who represented the seller for the sale of the property to Mr. Bevilacqua. He said that, in his opinion, this building needs to be torn down. He said that it is a poor layout and the inside is in awful shape. He said that spending five minutes in there causes respiratory distress. He said that he lives right behind and does not want to see a towering house but he also thinks that what is there is an eyesore and something needs to be done. He said that he supports the proposed plan.

Mr. Shind said that they do have a preliminary Drainage Plan and they intend to make sure that it gets done.

Mr. Seegel said that his opinion is that the proposed house is out of character for this neighborhood. He said that with respect to Special Permit Guidelines, he would find that this would be substantially more detrimental to the neighborhood. He said that something other than cookie cutter or off the shelf plans, architect designed plans to fit the lot would be far more appropriate. He said that it will obviously be larger than the houses around it but can be designed so that it fits into the neighborhood.

Mr. Adams said that he shared the concerns. He said that this project would take more than tweaking. He said that the Board has typically been open minded to proposals that appear to meet or closely meet the dimensional requirements and the size of the property is the only violation. He said that the Board has to listen the statements from the neighbors. He said that after visiting the neighborhood, he believes that it is pretty much as represented by the neighbors. He said that the case has been made clear that this would be more detrimental to the neighborhood and he would be inclined to not approve it. He said that since Mr. Bevilacqua now owns the property, it would be good for him to take another look at what he would like to put there, as opposed to coming back with a plan that just lops the top off of the roof to lower the height to 35 feet.

Mr. Sheffield said that he concurred with Mr. Seegel and Mr. Adams. He said that the character of the neighborhood will change but this change is too big a leap. He said that he thought that it could be done at a much smaller scale and more sensitively. He said that there are some rules of thumb about the purchases of properties in town by developers that he believes is that they have to improve the property value by 2.5 times the purchase price in order to generate a profit. He said that these kinds of changes in town will be driven by economics. He said that what Mr. Bevilacqua can do to this property that will not be detrimental to the neighborhood and still make a profit will be a challenge.

Mr. Shind said that, based on the comments of the Board and the public, which they appreciated, the Petitioner would like to request that the petition be allowed to be withdrawn without prejudice.

Mr. Sheffield moved and Mr. Adams seconded the motion to allow the petition to be withdrawn without prejudice. The Board voted unanimously to allow the petition to be withdrawn without prejudice.